

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

DANIEL R. NEAL,

Petitioner,

v.

JEN WINKELMAN,  
Commissioner, Alaska Department  
of Corrections,

Respondent.

Case No. 3:12-cv-00067-SLG-KFR

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court at Docket 106-1 is Petitioner's Second Amended Petition for Writ of Habeas Corpus (hereinafter "Second Amended Petition"). Respondent's Merits Brief was filed at Docket 129. No reply brief was filed. The matter was referred to the Honorable Magistrate Judge Kyle F. Reardon. At Docket 133, Judge Reardon issued his Report and Recommendation, in which he recommended that the Seconded Amended Petition be denied and that no Certificate of Appealability be issued. No objections to the Report and Recommendation were filed.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge."<sup>1</sup> A court is

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<sup>1</sup> 28 U.S.C. § 636(b)(1).

to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”<sup>2</sup> However, § 636(b)(1) does not “require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”<sup>3</sup>

The Magistrate Judge recommended that the Court deny the Second Amended Petition for Writ of Habeas Corpus. The Court has reviewed the Report and Recommendation and agrees with its analysis. Accordingly, the Court adopts the Report and Recommendation in its entirety, and IT IS ORDERED that the Second Amended Writ of Habeas Corpus is DENIED.

A Certificate of Appealability shall not be issued.

The Clerk of Court shall enter a final judgment accordingly.

DATED this 11th day of August, 2023, at Anchorage, Alaska.

/s/ Sharon L. Gleason  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> *Id.*

<sup>3</sup> *Thomas v. Arn*, 474 U.S. 140, 150 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).